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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/879,242	06/07/2001	Andreas Wenzel	GR 98 P 5873 P	4980

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EXAMINER

KNOLL, CLIFFORD H

ART UNIT	PAPER NUMBER
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2112

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/879,242

Applicant(s)

WENZEL, ANDREAS

Examiner

Clifford H. Knoll

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4,7,13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,7 and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This Office Action is responsive to communication filed 2/20/05. Currently claims 1, 4, 7, and 13 are pending.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Affidavit

The affidavit filed on 2/20/05 under 37 CFR 1.131 has not been considered because it is non-compliant. As noted by the Applicant, the affidavit presented on 2/20/05 by Supplemental Amendment is not signed. However, at the time of the instant Office Action, a corrected affidavit has not been received, and thus the affidavit is determined to be non-compliant (see MPEP §715.04).

Inasmuch as the Applicant intends to allege an actual reduction to practice, the Examiner will note that the mere submission of evidence is inadequate to establish actual reduction to practice (MPEP §715.07):

The essential thing to be shown under 37 CFR 1.131 is priority of invention and this may be done by any satisfactory evidence of the fact. FACTS, not conclusions, must be alleged. Evidence in the form of exhibits may accompany the affidavit or declaration. Each exhibit relied upon should be specifically referred to in the affidavit or declaration, in terms of what it is relied upon to show....

The affidavit or declaration and exhibits must clearly explain which facts or data applicant is relying on to show completion of his or her invention prior to the particular date. Vague and general statements in broad terms about what the exhibits describe along with a general assertion that the exhibits describe a reduction to practice "amounts essentially to mere pleading,

unsupported by proof or a showing of facts" and, thus, does not satisfy the requirements of 37 CFR 1.131(b). In re Borkowski, 505 F.2d 713, 184 USPQ 29 (CCPA 1974). Applicant must give a clear explanation of the exhibits pointing out exactly what facts are established and relied on by applicant. 505 F.2d at 718-19, 184 USPQ at 33. See also In re Harry, 333 F.2d 920, 142 USPQ 164 (CCPA 1964) (Affidavit "asserts that facts exist but does not tell what they are or when they occurred.")

As for what is necessary to establish reduction to practice in the declaration, the Examiner further notes the requirements as set forth in MPEP §2138.05 ("*Requirements to establish actual reduction to practice*").

Claim Rejections - 35 USC § 103

1. *Claims 1, 4, 7, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Munguia (US 5845096) in view of Jeddelloh (US 6473817).*

Regarding claims 1 and 7, Munguia discloses a multimaster bus system and its method comprising a bus, a plurality of units and a default master (Figure 1), the default-master stipulation being based on criteria selected from the group consisting of when, how often, and how long the units are used on the bus (col.2, lines 38-44). Munguia does not expressly mention that the criteria are variable; however, this feature is disclosed by Jeddelloh. Jeddelloh discloses criteria for assigning priority in a bus access scheme that is variable (e.g., col. 5, lines 31-38). It would have been obvious to combine Jeddelloh with Munguia because Jeddelloh teaches a more flexible approach to priority allocation by introducing a flexible policy, while Munguia readily acknowledges

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that additional criteria may be used in his system (col.4, lines 54-58). Therefore, it would have been obvious one of ordinary skill in the art to combine Jeddelloh with Munguia to obtain the claimed invention.

Regarding claims 4 and 13, Munguia discloses a multimaster bus system and method comprising a bus, a plurality of units and a default master (Figure 1), the default master selected from the group consisting of particular units with weighting based on performance criteria (col.4, lines 54-58), and the stipulation based on expected and actual analysis of the program cycle of the unit (e.g., col. 4, lines 58-62). While Munguia does not expressly disclose the need to access the bus frequently or rapidly, these limitations are disclosed by Jeddelloh. Jeddelloh discloses weighting criteria that include a particular unit that is expected to need to access the bus frequently, and a particular unit that is expected to need to access the bus rapidly (col.4, lines 24-30).

Response to Arguments

Applicant's arguments filed 1/18/05 have been fully considered but they are not persuasive.

Applicant argues that Munguia does not disclose "a 'default-master' selected from the plurality of units according to a dynamically modifiable default-master stipulation that is based upon variable criteria as recited in claim 1 or varying the criteria in claim 7" (p. 5) and further that Jeddelloh does not disclose the "'default-master' as required" (p. 6), that Jeddelloh "never sets anything akin to Applicant's claimed 'default-master" (p. 6) and "clearly does not function as a default-master". These arguments are

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not to the point however, as Munguia is relied upon to teach the “default-master” and not the “varying criteria”. Consequently, Jeddelloh is relied upon to not to teach the “default-master”, but rather, among other features, the “varying criteria” for selection. It is the combination of Munguia and Jeddelloh, not either one considered in isolation, which renders the claimed invention obvious.

Applicant further argues that the adjustments in Jeddelloh, “which help determine the ‘ranking’ of a device, is not analogous to Applicant’s claimed dynamically modifiable default-master stipulation based on a variable (claim 1) or varying (claim 7) criteria”. Once again, the Examiner notes that it is the teaching of Jeddelloh combined with Munguia that renders the claimed invention obvious. As such, arguing against the use of Jeddelloh to anticipate the claimed invention is not relevant. This leaves the issue of whether Jeddelloh should be considered “analogous” or, more generally, whether the combination of Jeddelloh with Munguia was proper. As noted in the rejection supra, Jeddelloh teaches improving the flexibility of priority allocation by introducing a varying criteria policy. Further, it is noted that Munguia acknowledges the possible benefits of using additional criteria in his system. The Examiner finds that Munguia’s selection of a default master is a form of priority allocation to which Jeddelloh’s teaching of varying criteria would have been obvious to a person of ordinary skill in the art. Thus the Examiner maintains the rejection using Munguia in combination with Jeddelloh to render the claimed invention obvious.

Applicant further argues that Munguia does not disclose "select[ing] a 'default master' using dynamically modifiable default-master stipulation...." (pp. 9-10); however, as noted supra, Examiner does not rely on Munguia to disclose this feature.

Applicant further argues that "the decision whether to 'park' a particular peripheral on the bus of Munguia, is not the selection of a 'default-master' as claimed" (p. 11); however, as defined by the Applicant in the specification, a default-master "is the bus master whenever none of the other units are requesting the bus" (p. 1). Similarly, Munguia defines his meaning of "park" when he notes that his disclosure "grants the peripheral component which requests access to the PCI bus most often access to the PCI bus when no other peripheral component is requesting access to the PCI bus. In so doing, the present invention 'parks' the PCI bus on th[is] peripheral component" (Abstract). Thus, the Examiner finds that Munguia's selection of a bus master on which to "park" anticipates the selection of a default-master.

Applicant further argues that Jeddelloh does not disclose "select[ing] a default master according to a dynamically modifiable default-master stipulation" (p. 11); however as noted supra, Examiner relies on a combination to render the invention obvious.

Applicant further argues that Jeddelloh's "devices 56A-56N are not the same as the 'default master selected...according to a dynamically modifiable default-master stipulation' as recited" (p. 12, elision in original), and concludes that Jeddelloh is "therefore, not combinable with Munguia"; however, as treated supra the Examiner finds the combination proper. A person of ordinary skill in the art would note the priority

selection of Munguia, Munguia's teaching that additional weighting (i.e., prioritization) criteria may be useful, and find it obvious to combine with the teaching of particular weighting criteria as provided by Jeddeloh.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clifford H. Knoll whose telephone number is 571-272-3636. The examiner can normally be reached on M-F 0630-1500.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark H. Rinehart can be reached on 571-272-3632. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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